

# TOWN OF MAGNOLIA

## ARTICLE II DRIVING REGULATIONS

### Introduction

Any person operating a motor vehicle on any public street, lane, alley or highway within the Town of Magnolia shall be subject to the Division of Motor Vehicles regulations as enacted and enforceable by and through Title 21 of the Delaware Code. The Town of Magnolia shall retain jurisdiction to regulate the use of such roadways and violations of the Division of Motor Vehicles regulations as well as applicable fines and penalties to be imposed in accordance with Title 21 of the Delaware Code. In accordance with Delaware Code, Title 21, Section 4101 (b), the Town of Magnolia shall not enact or enforce any rule or regulation contrary to Title 21 of the Delaware Code. Enforcement of traffic laws within the Town of Magnolia shall have the same force and effect as the traffic laws under Delaware Code, Title 21, or Delaware Administrative Code, Title 2.

Whenever any provision of Delaware Code, Title 21 refers to a specific section, such section shall be deemed to include substantially conforming ordinances and regulations enacted by the Magnolia Town Council. The court's notice of conviction for violating a local ordinance or regulation that substantially conforms to Title 21 of the Delaware Code, when included in the person's driving record, shall be deemed to be equivalent to a violation of the State statute to which it conforms and enforceable accordingly.

### 201. Speed Limits

The maximum speed limit allowed within the Town of Magnolia at any location shall be set at 25 MPH, except in a school zone when children are present where the speed limit shall be 20 MPH. The penalties for violating any such speed limits shall be that of the Division of Motor Vehicles' schedule of fines and penalties.

### 202. Detection and Enforcement

Detection and enforcement of speed limits and/or traffic laws shall be made by a uniformed authorized law enforcement officer whether on duty making routine observations or under independent contractual agreement with the Town of Magnolia.

### 203. Reckless Endangerment

Any operator of a motor vehicle within the Town of Magnolia who engages in an act of Reckless Endangerment (defined as "Acts that create a substantial risk of serious physical injury to another person), and such is witnessed by the Mayor and/or Vice Mayor, and a uniformed law enforcement officer is not readily available, may be detained by the Mayor and/or the Vice Mayor pending arrival

of a Delaware State Police Officer provided the act is deemed an immediate threat to the safety and well-being of the residents and/or property of the Town of Magnolia. Such complaint, witnessed by the Mayor and/or Vice Mayor, shall be made by sworn affidavit as witnessed thereof, and include the details of the endangerment. Such affidavit shall be provided to the investigating officer.

#### 204. Motor Vehicle Violation Enforcement

Violation of the Motor Vehicle Regulations of the State of Delaware within the Town of Magnolia is enforceable by any uniformed patrolman having jurisdiction and/or authority to enforce the Division of Motor Vehicles Regulations. Should the Mayor and/or Vice Mayor witness an obvious violation and such is deemed a threat to the safety and/or well-being of the residents and/or property, and a uniformed patrolman is not readily available, such witnessing official may file a sworn affidavit of the fact with the Delaware State Police, providing a description of the vehicle and the tag number for the investigation accordingly.

#### 205. Stopping, Standing, Parking

No person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon any roadway within the Town of Magnolia, except when necessary to avoid conflict with other traffic, unless directed to do so by an authorized traffic controller in an emergency situation, or a police officer controlling the flow of traffic. Any person authorized to make arrests including, but not limited to a Delaware State Police Officer, Mayor and/or Vice Mayor, is hereby authorized to remove or cause to be removed any unattended vehicle illegally left standing upon any roadway or illegally parked along the side of any roadway not providing parking provisions, or any vehicle obstructing the normal flow of traffic or causing a possible hazardous condition. No vehicle shall park on any sidewalk or in front of any private or public driveway. No unauthorized vehicle shall park in the Fire Company lot, Town Hall lot, or in any public or private lot without authority having been granted accordingly.

Any vehicle in violation of the herein parking ordinance shall be towed at the owner's expense. An authorized Delaware State Police Officer, the Mayor and/or the Vice Mayor shall arrange such towing. Should the vehicle be illegally parked in such a lot a warning sticker shall be issued allowing 24 hours to remove the vehicle, unless the automobile is causing an immediate obstruction and such is deemed by the Mayor or Vice Mayor and the property owner to be interfering with the necessary day to day operations of such entity, or which is deemed to be causing a public hazard, nuisance or in violation of any trespassing law/ordinance, at which time the vehicle may be towed immediately and without warning to the vehicle owner.

The authority to determine and enforce such a violation shall be made by the Mayor and/or any authorized law enforcement official. Should the parking violation occur upon a private entity, the owner of said property will first attempt to contact the Mayor and secondly the Delaware State Police Troop 3 before having the vehicle towed, unless there is a sign in the parking lot specifically

stating that “any unauthorized vehicle will be towed at owner’s expense.” Any vehicle ordered towed will be assessed the cost of the towing to the vehicle accordingly.

Parking violations shall be cited at a minimum fine of \$100.00, maximum of \$200.00 for the first offense, and for any subsequent offense \$200.00 minimum and \$400.00 maximum fine imposed plus legal fees. The Mayor, Vice Mayor, Town Solicitor or any authorized law enforcement officer may issue parking tickets.

#### 206. Abandoned Vehicles

Any vehicle appearing to be abandoned upon any private or public property, highway, roadway, alley or parking lot shall be towed at the owner’s expense and an illegal parking violation citation issued by the Mayor and/or Town Solicitor or any law enforcement official. Initially a violation sticker shall be affixed to the windshield of the vehicle giving 24 hours to remove the vehicle, unless the vehicle is deemed to be causing a public nuisance, hindering the flow of traffic, or deemed an immediate danger to the public, at which time the Mayor or Vice Mayor may order the vehicle towed without warning. Should the vehicle not be claimed within thirty days, and a background check of the vehicle identification number reveals the vehicle is of clear title and not stolen, the Town of Magnolia may place the vehicle for sale following an attempt to notify the registered owner of such vehicle either by certified U.S. mail or publication. Such determination and notice of sale, with a statement of costs, valuation of vehicle and proceeds shall be supplied to the Town Council promptly.

Any vehicle that is either inoperable, dismantled, wrecked, or which displays expired registration plates at least 30 days expired, or which displays no registration plates, or from which major components have been removed, is in such a state of disrepair as to be incapable of being operated in the manner for which it was designed and is situated upon private property, or is deemed to be causing a safety hazard to children or adults within the Town of Magnolia shall be removed following notice to the property owner or resident demanding such removal within 72 hours of notification by the Mayor, Vice Mayor and/or Town Solicitor served by personal written notice or notice affixed to the residence and/or vehicle immediately thereafter. The cost of such removal shall be assessed to the owner of the vehicle, the property owner or current resident.

#### 207. Vehicle Repairs

No vehicle maintenance or repairs shall be made on any public property within the Town of Magnolia, with the exception of public utility vehicles or emergency on-site repairs in the event of a broken-down vehicle needing to be placed back on the road immediately.

Any vehicle maintenance or repairs to be made upon a private residence within the Town of Magnolia that will require the vehicle to be in a state of disrepair, dismantled, or inoperable for more than 48 hours, and such vehicle is registered

to the property owner or resident, must meet all safety requirements including, but not limited to: Vehicles lifted on a jack or other lift device shall not be left unattended. Hoods or trunks shall not be left open while the vehicle is unattended. Tools shall not be left in disarray upon discontinuing work for the day. Automobile parts shall not be left in disarray upon discontinuing work for the day. Release of vehicle fluids (to include but not limited to – brake, oil, transmission, Freon, etc.) shall be disposed of in a container according to DNREC and EPA standards.

Should the herein conditions not be met for vehicle maintenance the Mayor and/or Town Solicitor shall cite such owner or resident of the property, for which a fine of \$50.00 with a daily attachment of \$25.00 shall be imposed accordingly up to 5 days, at which time the Mayor, Vice Mayor and/or Town Solicitor may authorize the removal of said vehicle at owner's expense.

#### 208. Passing Another Vehicle

Within the Town of Magnolia, no vehicle shall pass another vehicle while in motion on the left or right side unless necessary to avoid a collision, or unless such vehicle is an emergency response vehicle responding to an emergency call, at which time all vehicles being approached shall immediately clear the lane by pulling as far right as possible allowing the emergency vehicle to pass. The penalty for violation of such ordinance shall be in accordance with Division of Motor Vehicles' schedule of fines.

#### 209. Farm Machinery and Equipment

Farm machinery, equipment and vehicles shall be afforded necessary use and access to the public roadways in the Town of Magnolia, and shall be granted the same rights and abide by the same rules of the road as private and/or commercial vehicles. Any farm classified vehicle utilizing the roadways within the Town of Magnolia is restricted to travel to and from specific farm related locations. Any operator of a farm vehicle must exercise caution and safe operation of such vehicle. Should the farm equipment be moving at an extremely slow rate of speed, as to cause traffic back-up, said machinery shall, whenever practicable, move as far to the right side of the road allowing traffic to safely pass. No vehicle shall pass slow moving farm equipment unless such can be done so with caution and without jeopardizing traffic, pedestrians, or property within the Town of Magnolia.

#### 210. Discarding Items From Vehicle

Whoever throws from any vehicle any goods, merchandise, bundles, trash or debris of any kind, with the exception of newspaper delivery services, shall be fined not less than \$100.00 nor more than \$250.00 plus legal fees. Enforcement of this ordinance may be by witness of such action by the Mayor and/or Vice Mayor, or authorized law enforcement official. Issuance of a citation for a violation of this ordinance may be conducted by cross reference of the vehicle tag number and sworn statement of the witnessing official, being personally delivered to the vehicle's owner or serviced by and through the US Postal Service.

#### 211. Soliciting in Roadway

Whoever stands in the roadway of a street, lane, alley, intersection or highway to stop, impede, hinder, or delay the progress of any vehicle for the purpose of solicitation of goods, merchandise, tickets, or donations for any cause whatsoever, shall be fined for the first offense, not less than \$25.00, nor more than \$50.00. For each subsequent offense within one year, shall be fined not less than \$50.00, nor more than \$150.00 plus legal fees.

#### 212. Pedestrians

Pedestrians shall be granted the right-of-way when crossing at any intersection where a traffic control light or crossing guard is present, and the indication for crossing is either "green" or "walk". Whenever practicable, pedestrians shall move on the right half of the walk. Any pedestrian crossing at any point other than a designated cross walk must yield to oncoming traffic. Notwithstanding the foregoing provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any obviously confused or incapacitated person, or a person wholly or partially blind, carrying a cane or walking stick white in color, or white tipped in red, or accompanied by a guide dog upon roadway.

#### 213. Pedestrians Under Influence of Drugs or Alcohol

No person shall walk upon the streets, alleyways, or lanes within the Town of Magnolia while under the influence of intoxicating liquor and/or narcotics to a degree that renders the person a hazard. Such may be enforced by any uniformed patrolman, the Mayor or Vice Mayor. Should the person, after being ordered or taken home, return to the streets, such person may be deemed a public nuisance and a Delaware State Police Officer may be contacted to remove the person from the area and/or detain them until becoming sober.

#### 214. Bicycle and Skateboard Regulations

Bicycle or skateboard riding shall be permitted, unless otherwise posted, along any sidewalk within the Town of Magnolia. All bicycle and skateboard riders must yield the right of way to any and all pedestrians.

#### 215. Solicitations

Authorized solicitations for donations or sidewalk wares must be preauthorized by the Mayor and a permit issued accordingly. Such solicitations may occur only within a specified area designated on the permit, stating dates, times and cause. Permits for solicitation events will be issued at the Mayor or Town Council's discretion, which may include, but not be limited to fund raising events held by the Magnolia Fire Company, charity groups, children's clubs, churches or similar activities. At no time shall such solicitations be made in the roadways of Magnolia, but shall be limited to designated parking lots and/or sidewalks or property. Approved signs announcing the event may be erected 15 days in

advance, and must be removed immediately following the event. Holders of such events will be responsible for managing parking in a manner that will not hinder the normal flow of traffic or endanger persons or property.

**216. Yard Sales**

Privately held yard sales or placement of any item for sale upon any residential property within the Town of Magnolia shall not be held upon public sidewalks, shall be limited to designated areas, and shall not be held for longer than 72 hours.

Effective July 2012